

U.S. DISTRICT COURT
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

2019 AUG 12 PM 3:07
S. DIST. OF GA.

NAJAM AZMAT,)
)
Petitioner,)
)
v.) CASE NOS. CV417-086
) CR413-028
UNITED STATES OF AMERICA,)
)
Respondent.)
)

O R D E R

Before the Court are Petitioner's Motion to Withdraw (Doc. 64)¹ and the Magistrate Judge's Report and Recommendation (Doc. 57), to which no objections have been filed. After careful consideration, Petitioner's Motion to Withdraw is **DENIED**. Additionally, the Report and Recommendation is **ADOPTED** as the Court's opinion in this case.

On June 11, 2019, the Magistrate Judge issued a report and recommendation (Doc. 57) recommending the dismissal of Petitioner's Motion to Vacate, Set Aside or Correct Sentence (Doc. 1). The Magistrate Judge concluded that Petitioner's claims failed on the merits. (Id.) Petitioner was directed to file any objections to the report and recommendation by June 25, 2019. (Id. at 19.) Instead of filing any objections, Petitioner

¹ Unless otherwise noted, all citations are to Petitioner's civil case filed on this Court's electronic docketing system, 4:17-CV-086.

elected to appeal the Magistrate Judge's earlier denial of various motions filed by Petitioner. (Doc. 58.) On review, this Court carefully considered Petitioner's appeal, but, ultimately, found that Petitioner's appeal was meritless. (Doc. 62.) After affirming the Magistrate Judge's ruling, this Court provided Petitioner with additional time to file objections to the report and recommendation. (Id. at 10-11.) Petitioner's objections were due by August 1, 2019. (Id.)

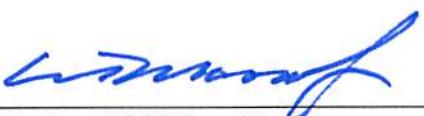
On July 29, 2019, again instead of filing any objections, Petitioner filed a Motion to Withdraw. (Doc. 64.) In his motion, Petitioner requests the opportunity to withdraw his original § 2255 petition because he falsely believes that doing so will "preserve his rights." (Id. at 2.) After careful consideration, however, this Court will not permit Petitioner to withdraw his petition at this stage in the proceedings. Petitioner's attempt to withdraw his petition after the Magistrate Judge has concluded that his claims are meritless is untimely.

Moreover, Petitioner misunderstands the effect of withdrawing his petition. Under the Anti-Terrorism and Effective Death Penalty Act ("AEDPA"), a Petitioner must file any § 2255 petition within one year of "the date on which the judgment of the conviction becomes final." 28 U.S.C. § 2255 (f)(1). In this case, Petitioner's judgment became final on May 16, 2016 and Petitioner's original habeas petition was filed on May 15, 2017.

If Petitioner withdraws his petition at this time, any future attempt to assert those claims would be outside of the one-year statute of limitations and barred from review as untimely. In light of the fact that the Magistrate Judge has fully considered the merits of Petitioner's claims and Petitioner will forfeit his right to raise these claims by withdrawing his motion, this Court **DENIES** Petitioner's Motion to Withdraw.

Because this Court has denied Petitioner's Motion to Withdraw, the Court must now consider the Magistrate Judge's Report and Recommendation (Doc. 57). Despite having a second opportunity to file objections, Petitioner has not filed any objections to the report and recommendation. After careful review, the Magistrate Judge's Report and Recommendation is **ADOPTED** as the Court's opinion in this case. The Magistrate Judge properly considered the merits of Petitioner's numerous claims and found that Petitioner was not entitled to any relief. As a result, Respondent's Motion to Dismiss (Doc. 6.) is **GRANTED** Petitioner's Motion to Vacate, Set Aside or Correct is (Doc. 1) **DENIED**. The Clerk is **DIRECTED** to close this case.

SO ORDERED this 12th day of August 2019.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA